

House Bill 919

By: Representatives Brown of the 69th and Gardner of the 57th

A BILL TO BE ENTITLED
AN ACT

To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to provide for the comprehensive regulation of overtime obligations of nurses; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for employment circumstances prohibiting mandatory overtime; to provide for employment circumstances permitting mandatory overtime; to provide for certain requirements and prohibitions with respect to employers; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by adding a new chapter immediately following Chapter 3 to be designated as Chapter 3A to read as follows:

"CHAPTER 3A

34-3A-1.

This chapter shall be known and may be cited as the 'Nurse Involuntary Overtime Act.'

34-3A-2.

The Georgia General Assembly finds that requiring registered professional nurses and licensed practical nurses to work beyond regularly scheduled hours increases the possibility that fatigue and stress may cause errors in the delivery of patient care. In order to minimize the potential harm caused by such lapse in patient safety, it is a declaration of public policy that nurses providing direct patient care in health care facilities shall not be required, as a condition of employment, to work beyond a predetermined work schedule.

34-3A-3.

For purposes of this chapter, the term:

(1) 'Employer' means a health care facility licensed or permitted under Title 31.

(2) 'Nurse' means a person licensed as either a registered professional nurse or a licensed practical nurse under Chapter 26 of Title 43.

(3) 'Overtime' means hours worked in excess of a predetermined work schedule.

(4) 'Predetermined work schedule' means a regular and systematic duration of work hours set at no more than 12 hours of work per daily shift and no more than 40 hours of work in a calendar week.

34-3A-4.

(a) Except as provided in subsections (b) and (c) of this Code section, an employer shall not require a nurse to work more than the regularly scheduled hours according to a predetermined work schedule.

(b) A nurse may be required to work overtime if:

(1) The work is a consequence of an emergency situation which could not have been reasonably anticipated by the employer;

(2) The emergency situation is nonrecurring and is not caused by or aggravated by the employer's inattention or lack of reasonable contingency planning;

(3) The employer has exhausted all good faith and reasonable attempts to obtain voluntary nurses during the succeeding shifts;

(4) The nurse has critical skills and expertise which are required for the work; and

(5) The accepted protocol and standard of care for a patient assignment requires continuity of care through completion of a case, treatment, or procedure.

(c) In addition to the provisions of subsection (b) of this Code section, a nurse may be required to work overtime if a condition of employment includes on-call rotation or a written employment arrangement agreed to by the nurse and the employer.

(d) This Code section shall not be construed to prohibit a nurse from voluntarily agreeing to work more than the number of hours set forth in a predetermined work schedule, provided that such agreement is not achieved through threats, intimidation, or coercion by the employer against the nurse.

34-3A-5.

(a) An employer shall exhaust all good faith and reasonable attempts to ensure that appropriate staff is available to accept responsibility for a patient's care beyond a nurse's predetermined work schedule.

(b) Except as provided for in subsections (b) and (c) of Code Section 34-3A-4, a nurse shall not be considered responsible for the care of a patient beyond the nurse's predetermined work schedule if the nurse:

(1) Has notified another appropriate nurse of the patient's status; and

(2) Has transferred responsibility for the patient's care to another appropriate nurse or properly designated individual.

(c) An employer shall provide a nurse with written instructions detailing the employer's procedure for notifying another nurse of a patient's status and transferring responsibility for a patient's care to another appropriate nurse or properly designated individual. A nurse who performs in accordance with the written instructions of the employer shall be deemed to have acted in accordance with subsection (b) of this Code section.

34-3A-6.

Notwithstanding any provision in this chapter to the contrary, an employer shall not discipline a nurse for refusing to work more than 12 consecutive hours during the course of a single work shift. An employer which requires a nurse to work more than 12 consecutive hours shall schedule the nurse to have at least 12 consecutive hours of off-duty time immediately following the time worked beyond a nurse's predetermined work schedule."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.